

TB-18 Campus and Subsidized Housing

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Tax: Gross Income Tax

Topic: Campus and Subsidized Housing

A recent New Jersey Tax Court decision (RULAC vs. Division of Taxation) affects the eligibility of some tenants for a Homestead Property Tax Rebate. Because the rebate is a return of property taxes paid (for tenants, 18% of rent is considered to have gone toward property tax payment), the Court ruled that tenants who live in a dwelling not subject to local property tax are not entitled to a rebate.

The following individuals are not eligible for a rebate and should not file a 1992 rebate application:

1. Tenants living in subsidized housing or other dwellings owned by the State, County, Municipal, or Federal government. This can include low income or senior citizen housing developments and individual dwellings owned by governmental agencies.
2. Students living in on-campus apartments at State colleges and universities.
3. Tenants living in a dwelling owned by a religious, charitable or other nonprofit organization, if the property is exempt from property taxes. This can include senior citizen complexes and other housing owned by these organizations as well as on-campus apartments at private nonprofit colleges and universities.

Although in some cases, "in lieu of tax" payments may be made by the government to the municipality in which these properties are located, the Court ruled that these payments are not property taxes. Therefore, tenants living in these dwellings are not entitled to Homestead Property Tax Rebates.

Tenants who are uncertain whether their rent goes toward the payment of local property taxes should contact their landlord or local tax collector.

Tenants who have part of their rent subsidized, but reside in buildings subject to property tax, are not affected by this decision and continue to qualify for the Homestead Property Tax Rebate based on the portion of rent they actually pay.

Tenants who live in housing owned by the Federal government (for example, HUD), State government (for example, the New Jersey Housing Authority), county government (for example, Mercer County), or municipal government (for example, the Trenton Housing Authority) are affected by this ruling and are not entitled to a rebate.

Example #1

Susan Smith, a senior citizen, lives in a building owned by and pays rent to Essex County. The County does not pay local property taxes, but makes payments "in lieu of taxes."

Susan is not entitled to a Homestead Property Tax Rebate.

Example #2

Henry Jones lives in a privately owned senior citizen complex. Local property taxes are paid on the property. Henry has an annual income which qualifies him to receive a rent subsidy. The monthly rent is \$400, but after subtracting his subsidy, Henry pays only \$250.

Henry is entitled to a Homestead Property Tax Rebate based on 18% of the amount of rent he pays out of his pocket ($\$250 \times$ the number of months Henry lived in the complex).

Example #3

John Leeds lives in a low-income housing building owned by HUD, a Federal agency.

John is not entitled to a Homestead Property Tax Rebate.

Example #4

Paula Sims is a student at Montclair State College and lives in on campus housing while school is in session.

Paula is not entitled to a Homestead Property Tax Rebate for her student housing.